

**§ 435.601 Application of financial eligibility methodologies.**

(a) *Definitions.* For purposes of this section, *cash assistance financial methodologies* refers to the income and resources methodologies of the AFDC, SSI, or State supplement programs, or, for aged, blind, and disabled individuals in States that use more restrictive criteria than SSI, the methodologies established in accordance with the requirements of §§ 435.121 and 435.230.

(b) *Basic rule for use of cash assistance methodologies.* Except as specified in paragraphs (c) and (d) of this section or in § 435.121 in determining financial eligibility of individuals as categorically and medically needy, the agency must apply the financial methodologies and requirements of the cash assistance program that is most closely categorically related to the individual's status.

(c) *Financial responsibility of relatives.* The agency must use the requirements for financial responsibility of relatives specified in § 435.602.

(d) *Use of less restrictive methodologies than those under cash assistance programs.* (1) At State option, and subject to the conditions of paragraphs (d)(2) through (d)(5) of this section, the agency may apply income and resource methodologies that are less restrictive than the cash assistance methodologies in determining eligibility of the following groups:

(i) Qualified pregnant women and children under the mandatory categorically needy group under § 435.116;

(ii) Low-income pregnant women, infants, and children specified in section 1902(a)(10)(i)(IV), 1902(a)(10)(A)(i)(VI), and 1902(a)(10)(A)(i)(VII) of the Act;

(iii) Qualified Medicare beneficiaries specified in sections 1902(a)(10)(E) and 1905(p) of the Act;

(iv) Optional categorically needy individuals under groups established under subpart C of this part and section 1902(a)(10)(A)(ii) of the Act;

(v) Medically needy individuals under groups established under subpart D of this part and section 1902(a)(10)(C)(i)(III) of the Act; and

(vi) Aged, blind, and disabled individuals in States using more restrictive eligibility requirements than SSI under groups established under §§ 435.121 and 435.230.

(2) The income and resource methodologies that an agency elects to apply to groups of individuals described in paragraph (d)(1) of this section may be less restrictive, but no more restrictive (except in States using more restrictive requirements than SSI), than:

(i) For groups of aged, blind, and disabled individuals, the SSI methodologies; or

(ii) For all other groups, the methodologies under the State plan most closely categorically related to the individual's status.

(3) A financial methodology is considered to be no more restrictive if, by using the methodology, additional individuals may be eligible for Medicaid and no individuals who are otherwise eligible are by use of that methodology made ineligible for Medicaid.

(4) The less restrictive methodology applied under this section must be comparable for all persons within each category of assistance (aged, or blind, or disabled, or AFDC related) within an eligibility group. For example, if the agency chooses to apply less restrictive income or resource methodology to an eligibility group of aged individuals, it must apply that methodology to all aged individuals within the selected group.

(5) The application of the less restrictive income and resource methodologies permitted under this section must be consistent with the limitations and conditions on FFP specified in subpart K of this part.

(e) [Reserved]

(f) *State plan requirements.* (1) The State plan must specify that, except to the extent precluded in § 435.602, in determining financial eligibility of individuals, the agency will apply the cash assistance financial methodologies and requirements, unless the agency chooses to apply less restrictive income and resource methodologies in accordance with paragraph (d) of this section.

(2) If the agency chooses to apply less restrictive income and resource methodologies, the State plan must specify:

(i) The less restrictive methodologies that will be used; and

(ii) The eligibility group or groups to which the less restrictive methodologies will be applied.

[58 FR 4929, Jan. 19, 1993, as amended at 59 FR 43052, Aug. 22, 1994]

**§ 435.602 Financial responsibility of relatives and other individuals.**

(a) *Basic requirements.* Subject to the provisions of paragraphs (b) and (c) of this section, in determining financial responsibility of relatives and other persons for individuals under Medicaid, the agency must apply the following requirements and methodologies:

(1) Except for a spouse of an individual or a parent for a child who is under age 21 or blind or disabled, the agency must not consider income and resources of any relative as available to an individual.

(2) In relation to individuals under age 21 (as described in section 1905(a)(1) of the Act), the financial responsibility requirements and methodologies that apply include considering the income and resources of parents or spouses whose income and resources would be considered if the individual under age 21 were dependent under the State's approved AFDC plan, whether or not they are actually contributed, except as specified under paragraphs (c) and (d) of this section. These requirements and methodologies must be applied in accordance with the provisions of the State's approved AFDC plan.

(3) When a couple ceases to live together, the agency must count only the income of the individual spouse in determining his or her eligibility, beginning the first month following the month the couple ceases to live together.

(4) In the case of eligible institutionalized spouses who are aged, blind, and disabled and who have shared the same room in a title XIX Medicaid institution, the agency has the option of considering these couples as eligible couples for purposes of counting income and resources or as eligible individuals, whichever is more advantageous to the couple.

(b) *Requirements for States using more restrictive requirements.* Subject to the provisions of paragraph (c) of this section, in determining financial eligibility of aged, blind, or disabled indi-

viduals in States that apply eligibility requirements more restrictive than those used under SSI, the agency must apply:

(1) The requirements and methodologies for financial responsibility of relatives used under the SSI program; or

(2) More extensive requirements for relative responsibility than specified in § 435.602(a) but no more extensive than the requirements under the Medicaid plan in effect on January 1, 1972.

(c) *Use of less restrictive methodologies.* The agency may apply income and resources methodologies that are less restrictive than those used under the cash assistance programs as specified in the State Medicaid plan in accordance with § 435.601(d).

(d) [Reserved]

[58 FR 4930, Jan. 19, 1993, as amended at 59 FR 43052, Aug. 22, 1994]

**§ 435.604 [Reserved]**

**§ 435.606 [Reserved]**

**§ 435.608 Applications for other benefits.**

(a) As a condition of eligibility, the agency must require applicants and recipients to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so.

(b) Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensation and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation.

[43 FR 45204, Sept. 29, 1978. Redesignated at 58 FR 4931, Jan. 19, 1993]

**§ 435.610 Assignment of rights to benefits.**

(a) As a condition of eligibility, the agency must require legally able applicants and recipients to:

(1) Assign rights to the Medicaid agency to medical support and to payment for medical care from any third party;

(2) Cooperate with the agency in establishing paternity and in obtaining medical support and payments, unless the individual establishes good cause